

1  
2  
3  
4  
5  
6  
7 AGREEMENT  
8 BETWEEN  
9 THE CITY OF ALBUQUERQUE  
10 AND  
11 ALBUQUERQUE POLICE OFFICERS' ASSOCIATION  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37 EFFECTIVE: June 2, 2003 through June 30, 2006  
38

# AGREEMENT

THIS AGREEMENT is entered into by and between the City of Albuquerque, a municipal corporation of the State of New Mexico, hereinafter sometimes referred to as "City", and the Albuquerque Police Officers' Association, hereinafter referred to as the "Association."

WHEREAS, the parties hereto have reached an agreement on all matters which have been subject to negotiation and desire to reduce such agreement in writing in order to avoid any misunderstanding on what in fact has been agreed to:

NOW THEREFORE, IT IS HEREBY AGREED:

The City of Albuquerque recognizes the Albuquerque Police Officers' Association as the exclusive collective bargaining representative for the permanent, full-time, non-probationary, sworn police officers through the rank of Captain, from APD, Aviation, and Open Space.

The City of Albuquerque extends to the Albuquerque Police Officers' Association representing such unit of employees the following rights:

- A. To represent the employees in negotiations and in the settlement of grievances;
- B. To membership dues deduction, upon presentation of dues authorization cards signed by individual employees; and
- C. To exclusive representation status during the term of this Agreement as provided in the Employee Relations Ordinance.
- D. Unless specifically stated otherwise, all sections in this collective bargaining agreement will apply to APD, Aviation, and Open Space.

## INDEX

<u>SECTION</u>	<u>TITLE</u>	<u>PAGE</u>
1	Academic Incentive Program	1
23	Administrative Investigations	20
6	Annual and Emergency Military Leave	9
19	Association Representative	16
42	Bulletin Boards	43
33	Captains	37
18	Checkoff Authorization/Fair Share	14
40	Circularized Positions	40
32	Compensation	33
36	Compensatory Time	38
45	Contract Includes Entire Agreement	44
47	Deferred Compensation	45
27	Elections and Appointments	31
26	Employee's Personnel File	30
34	Fair Labor Standards Act	38
29	Firearms	31
14	Funeral and Burial Expenses	13
25	Grievance and Appeal Procedures	26
7	Hazardous Duty Leave	9
3	Holiday Pay	2
30	Hours of Work and Overtime	31
38	Humanitarian Leave Pool	39
13	Injury Pay	12
12	Inoculation and Immunization	11
15	Layoff and Recall	13
24	Legal Protection	25
11	Life and Accidental Death and Dismemberment Benefit	11
37	Lost, Damaged, or Stolen Property	38
10	Medical and Hospitalization Insurance	11
43	Monthly Award Incentive Program	44
16	No Strike	14
9	On-Call and Call-Backs	10
44	Open Space, APD, Aviation Provisions	44
5	Parental Leave	8
17	Payroll Deductions	14
35	PERA	38
21	Probation Period	17
20	Rules and Regulations	16
46	Savings Clause	44
22	Seniority	18
31	Shift Differential	33
39	Shift Exchange	40
4	Sick Leave	7
41	Take Home Car Plan	41
48	Term of Agreement	45
28	Uniforms	31
8	Union Management Safety/Security Committees	10
2	Vacation	1

1 **SECTION 1. ACADEMIC INCENTIVE PROGRAM**

2  
3 A. Credit hours shall be compensated for on a fixed dollar amount as follows:

4 1. All officers shall continue to receive academic incentive pay at the rate  
5 they are receiving as of the effective date of this agreement.

6 2. Bachelor' s Degree shall be compensated at sixtytwo dollars and thirty-one  
7 cents (\$62.31) biweekly so long as such degree is from an accredited  
8 college or university and can be officially verified.

9  
10 3. Master' s Degree shall be compensated at seventythree dollars and eighty-  
11 five cents (\$73.85) bi-weekly so long as such degree is from an accredited  
12 college or university and can be officially verified.

13  
14 4. A Ph.D. shall be compensated at eighty-five dollars and thirty-eight cents  
15 (\$85.38) bi-weekly so long as such degree is from an accredited college or  
16 university and can be officially verified.

17  
18 5 Payment shall be implemented bi-weekly.

19  
20 6. Officers will be paid for only one degree at the highest academic level  
21 obtained.

22  
23 B. The initial verification of educational status made by the department for entry into  
24 police service will also be used to determine the qualification for the Academic  
25 Incentive.

26  
27 It is the responsibility of the officer to update his/her file from transcripts from an  
28 accredited college or university and can be officially verified.

29  
30  
31  
32 **SECTION 2. VACATION**

33  
34 A. Vacation leave will accrue as follows:

35

CONTINUOUS SERVICE	ACCRUAL/BIWEEKLY	PER YEAR
<u>ACCRUAL/PER YEAR</u>		<u>(based on 8hr days)</u>
Less than 5 years	3.85 Hours	12.5 Days
More than 5 years/less than 10 years	4.62	15 Days
More than 10 years/less than 15 years	5.54	18 Days
More than 15 years	6.16	20 Days

42

1 B. Employees shall be compensated in cash at their regular rate of pay for any  
2 unused accumulation of vacation when they are permanently separated from the  
3 City.

4  
5 C. Any employee may request advanced vacation leave pay for forty (40) or more  
6 hours of approved vacation leave by submitting a written request to the Chief of  
7 Police (with an approval Line) ten days in advance. Payment will be made on the  
8 regularly scheduled payday prior to the vacation leave being taken. Special  
9 checks will normally not be authorized except in emergency situations approved  
10 by the Chief of Police.

11  
12 D. All excess vacation accruals will be paid to the employee as monetary  
13 compensation at the end of the calendar year on an hour for hour basis. Effective  
14 January 12, 2002, excess vacation accruals up to a maximum of (80) hours will be  
15 paid to the employee as monetary compensation at the end of the calendar year on  
16 an hour for hour basis.

17  
18 E. (Aviation/Open Space only) During the month of December each department will  
19 provide for employees the right to bid for vacation scheduling for the following  
20 year. Vacation will be bid in seniority order by department. A calendar for  
21 bidding, identifying vacation slots will be provided for employees to bid for their  
22 vacation. It is required that one Union representative on each shift be identified to  
23 assist management with the bidding process. Employees will be allowed to bid in  
24 conjunction with their days off, and will not be required to bid in blocks of three.  
25 Units that are currently on a 6-month bid will continue to do so for the duration of  
26 this contract.

27  
28 F. (Aviation/Open Space only) Unscheduled vacation is defined as accrued vacation  
29 time which was not scheduled during the bidding period. Such vacation time may  
30 be requested on an individual basis for available days on a first come, first serve  
31 basis. These requests will be submitted to the employee' s immediate supervisor  
32 on a P-30 form and the request will identify the date and time received.

33  
34 G. (Aviation/Open Space only) All P-30' s will be returned to employees within forty  
35 eight hours (48) hours.

36  
37 H. (Aviation/Open Space only) If an employee is on suspension, injury leave,  
38 administrative leave, sick leave or other leave during their scheduled vacation, any other  
39 employee may request such vacation time as unscheduled vacation on a first-come, first-  
40 served basis.

41  
42  
43 **SECTION 3. HOLIDAY PAY**

44  
45 A. Legal holidays for police Officers shall be as follows:

1	NEW YEAR' S DAY	January 1st
2	MARTIN LUTHER KING' S BIRTHDAY	third Monday in January
3	WASHINGTON' S BIRTHDAY	third Monday in February
4	MEMORIAL DAY	last Monday in May
5	INDEPENDENCE DAY	July 4th
6	LABOR DAY	first Monday in September
7	VETERAN' S DAY	November 11th
8	THANKSGIVING DAY	fourth Thursday in November
9	DAY AFTER THANKSGIVING	fourth Friday in November
10	CHRISTMAS DAY	December 25th

11  
12 And those holidays that the CAO announces as legal holidays for city employees. If the  
13 CAO designates additional holidays the City and Association will meet to determine how  
14 the additional holiday should be compensated.

15  
16 B. Police officers shall receive holiday pay at straight time at their hourly rate for  
17 either 8 hours or 10 hours based on their normal work shift for all holidays not  
18 worked. In the event a police officer is required to work on a holiday, and does  
19 not exercise an option to take a floating holiday, he or she shall be paid holiday  
20 pay as mentioned above, plus time and one-half for the first 8 hours if on a normal  
21 work shift of 10 hours, plus 2 hours straight comp time.

22  
23 C. Any or all holidays mentioned in Paragraph "A" may be designated as floating  
24 holidays by the employee. A floating holiday is one that the employee may  
25 convert to vacation (their option), either eight (8) hours or ten (10) hours per  
26 holiday depending on normal work shift, any time after the actual holiday has  
27 occurred, or within the pay period prior to the holiday as an additional vacation  
28 day.

29  
30 D. In filling the routine manning requirements for holidays, the required personnel  
31 shall be assigned from a roster of those police officers who are normally  
32 scheduled to work on the holiday as defined in Section 3.A, based upon seniority  
33 in rank within sections or division and by shift. If manning requirements cannot  
34 be met from those who volunteer, then those officers who are required to work  
35 shall be assigned on the basis of reverse order of seniority. Officers ordered to  
36 work a holiday may choose to float the holiday or receive holiday pay as specified  
37 in Paragraph B.

38  
39 E. Any Officer forced off on a holiday may elect to work the holiday and float the  
40 day off by converting it to vacation.

41  
42 F. Sections that normally are not required to be manned on holidays may be allowed,  
43 at the discretion of the Division Commander, to work that holiday only as a  
44 floating holiday.

- 1 G. An employee' s birthday shall be considered a personal leave day. Officers shall  
2 not be required to work their birthday except in emergencies. Should an  
3 employee be forced to work their birthday they will be compensated under  
4 Section 3 B.  
5  
6

7 **SECTION 4. SICK LEAVE**  
8

- 9 A. The City will pay to the designated beneficiary of a deceased police officer the  
10 total amount of sick leave accumulated as of the date of his/her death; provided,  
11 however, that the police officer is killed in the line of duty or dies of injuries or  
12 illness sustained in the line of duty.  
13  
14 B. The City will pay to the designated beneficiary of a deceased police officer the  
15 total amount of sick leave accumulated whether or not the deceased police officer  
16 dies in the line of duty; provided, however, that the death of the police officer is  
17 under honorable circumstances. This benefit is not applicable in cases of suicide.  
18  
19 C. The City will pay to a police officer the total amount of his/her accumulated sick  
20 leave at the time of his/her retirement, provided he/she has completed a minimum  
21 of fifteen (15) years of service in the Police Department, Open Space and  
22 Aviation Police. In lieu thereof, the police officer who is contemplating  
23 retirement, may, immediately prior to his/her retirement, convert his/her  
24 accumulated sick leave to leave with pay on the basis of one (1) day sick leave for  
25 one (1) day leave with pay. No sick leave will be accrued while the officer is on  
26 early retirement leave.  
27  
28 If the police officer is eligible to early retire, he/she may convert his or her  
29 accumulate sick leave with pay on the basis of (1) day sick leave with pay  
30 regardless of the number of years he/she worked for the Albuquerque Police  
31 Department, Aviation Department, or Open Space Division.  
32  
33 D. A police officer may accumulate sick leave up to a maximum of 2000 hours. Any  
34 sick leave accrued over the maximum will automatically be converted to  
35 hazardous duty leave at the rate of two days of sick leave for one day of  
36 hazardous duty leave.  
37  
38 E. Sick leave will accrue at the rate of three and seven tenths (3.70) hours per pay  
39 period.  
40  
41 F. Payment under this section will be made to the specific beneficiary identified for  
42 this benefit. Should the deceased officer not have a specific beneficiary identified  
43 for this benefit, the payment will be made to the current spouse or if the officer  
44 was not married at the time of death, the payment will be made to the officer' s  
45 estate.  
46

1 G. A police officer will receive one extra day of vacation every six (6) months, if that  
2 officer does not use any sick leave during the same six (6) month period.

3  
4 H. Emergency Leave: Emergency leave charged to sick leave for up to three (3)  
5 work days may be requested when the presence of the employee is required by a  
6 physician as a result of a serious illness or injury to a member of an employee' s  
7 immediate family. The City will allow as many as three (3) workdays emergency  
8 leave for a death in the employee's immediate family. For the purposes of this  
9 section, an employee's immediate family shall include the employee's spouse,  
10 child, parent, parent-in-law, grandparent, brother or sister. If travel over five  
11 hundred (500) miles (one Way from Albuquerque) is required for a death of a  
12 member of the immediate family of an employee, one (1) additional leave day per  
13 five hundred (500) mile increment shall be granted. Employees may elect to use  
14 accrued vacation leave instead of sick leave for an "emergency leave," however,  
15 they shall be subjected to the conditions of using "emergency leave."  
16  
17

## 18 **SECTION 5. PARENTAL LEAVE**

19  
20 The City will grant leave benefits set forth in the Family and Medical Leave Act  
21 (F.M.L.A.) for the purposes set forth in the FMLA and the City's Rules and Regulations.  
22 The employee shall notify the City of the employee's intent to use FMLA Leave as  
23 required by the City's Rules and Regulations.  
24

25 Employees taking F.M.L.A. leave for the purposes of childbirth or care of a  
26 newborn child may choose to take either sick leave, vacation or compensatory time. In  
27 accordance with federal regulations, either the employer or the City may designate such  
28 leave as F.M.L.A. leave.  
29

30 The Chief of Police may grant up to 720 hours of Leave Without Pay for the  
31 purpose of the medical condition related to childbirth and care of a newborn child. The  
32 leave may be granted in the following manner: (1) up to 360 hours of Leave Without Pay  
33 in lieu of sick leave for a medical condition related to childbirth; and, (2) up to 360 hours  
34 of Leave Without Pay for care of a newborn child. The officer is limited to one request  
35 in a 12-month period. It is recognized that staffing requirements may be a major factor in  
36 the approval of the request for leave for care of a newborn child.  
37

38 Upon returning to active duty under this section the employee will retain full  
39 seniority, in the same grade and step, rank and previously held position.  
40

41 Employees are eligible to request additional Leave Without Pay up to one (1) year  
42 under the City' s Rules and Regulations to be approvedby the Chief Administrative  
43 Officer upon the recommendation of the Chief of Police. Such requests may only be  
44 approved if the officer agrees in writing to allow their seniority/anniversary date to be  
45 adjusted for the time they are on Leave Without Pay beyond the 720 hours allowed by

1 this section. This change in anniversary date will also be used in calculating the  
2 experience requirement for promotion. The anniversary date shall be calculated from the  
3 day the employee returns to paid status, less the 720-hour period provided by this section.

#### 4 **SECTION 6. ANNUAL AND EMERGENCY MILITARY LEAVE**

5  
6 A. Military Leave with pay will be authorized for permanent employees who are  
7 members of the National Guard or Air National Guard of New Mexico or any  
8 organized reserve unit of the armed forces of the United States, including the  
9 Public Health Service, for a period not to exceed 15 working days in each federal  
10 fiscal year which begins October 1, in addition to other authorized leave, when  
11 they are ordered to active duty training with such units. Permanent employees  
12 who are members of an unorganized reserve component may be granted military  
13 leave not to exceed 15 working days in each federal fiscal year, which begins  
14 October 1, for the purpose of attending organized courses of instruction, or  
15 training periods authorized such personnel. Permanent employees called to active  
16 military duty in emergencies declared by the Governor or the President for short  
17 periods of time not to exceed 15 days may be granted military leave.  
18

19 B. When a police officer is called into active service with the National Guard or  
20 Air National Guard of New Mexico or any organized unit of the armed forces of  
21 the United States, including the public health service the officer may choose to  
22 convert sick leave to hazardous-duty leave on the basis of one (1) hour hazardous-  
23 duty leave for any one (1) hour of sick leave. This provision shall only apply for  
24 activations of eighty (80) hours or more.  
25

26 C. If an officer is assigned to a ten (10) hour work shift, he will receive a total of  
27 one hundred-fifty (150) hours for the fifteen (15) working days as provided in  
28 paragraph A. of this section. If an officer is assigned to an eight (8) hour work  
29 shift, he will receive a total of one hundred-twenty (120) hours for the fifteen (15)  
30 working days as provided in paragraph A. of this section.  
31  
32

#### 33 **SECTION 7. HAZARDOUS-DUTY LEAVE**

34  
35 It is mutually understood by the parties hereto that police officers perform duty,  
36 which is hazardous in nature, in that it is strenuous, both mentally and physically, and in  
37 many instances involves physical danger. Therefore, because of this fact, the City will  
38 allow sick leave to be converted to leave to be known as hazardous duty leave as follows:  
39

40 A. When an officer has accumulated and maintains a total of 360 hours of sick leave,  
41 he/she may convert any part of the sick leave accumulated over and above the 360  
42 hours to hazardous duty leave on the basis of eight (8) hours hazardous duty leave  
43 for twenty-four (24) hours sick leave.  
44

- 1       B.     When a police officer has accumulated and maintains a total of 720 hours of  
2             sick leave, the police officer may convert any sick leave accumulated over and  
3             above 720 hours to hazardous-duty leave on the basis of one (1) hour  
4             hazardous-duty leave for one (1) hour of sick leave.  
5

6     **SECTION 8. UNION-MANAGEMENT SAFETY/SECURITY COMMITTEES**  
7

- 8     A.     It is the responsibility of all bargaining unit members, officials of the Association,  
9             and managers to contribute to a healthful and safe working environment. In the  
10            furtherance of this policy, a joint Union Management Safety/Security Committee  
11            will be established to review safety issues and make recommendations for  
12            improvement to the department director.  
13
- 14    B.     Security is included in this Section only as it relates to safety. Members of the  
15             Safety/Security Committee will meet at least once per month during working  
16             hours without loss of pay. If issues arise requiring immediate attention, the  
17             parties may agree to meet on a more frequent basis. If minutes of the committee  
18             meetings are kept, such minutes shall be made available to all committee  
19             members.  
20
- 21    C.     Each Committee will be composed of two employees selected by the Association  
22             President and two employees selected by management.  
23
- 24    D.     The Safety Committee will not initiate or recommend disciplinary action.  
25
- 26    E.     Each Committee will adopt guidelines governing the focus of its review.  
27
- 28    F.     Concerns regarding the effectiveness of Safety Committees may be addressed at  
29             the department level or through the Employee Relations Office.  
30
- 31    G.     At the request of the Safety/Security Committee, the Chief or his/her designee  
32             will meet to confer with the Association to discuss and attempt to resolve issues  
33             related to safety, including equipment and training needs.  
34
- 35    H.     In the event that equipment issued by the Department is considered unsafe or  
36             defective by an employee, the employee must identify the problem to the best of  
37             his/her ability and submit the issue in writing to his/her supervisor. Management  
38             will respond within ten (10) working days.  
39

40    **SECTION 9. ON-CALL AND CALL BACKS**  
41

- 42    A.     *On-call status:* A police officer will not be required to remain at home for  
43             purposes of on-call so long as he/she can assure his/her availability for duty  
44             within one (1) hour.

1 B. *Call-Back Time:* When an officer is called to work at a period other than his/her  
2 regularly scheduled working hours, he/she is guaranteed pay at either his/ her  
3 hourly overtime rate for two (2) hours work or overtime pay for the hours actually  
4 worked, whichever is greater. Callback time will not apply when the assignment  
5 immediately precedes or follows the regular assignment.

6 The two-hour call back time guarantee will not apply if the call-out is cancelled  
7 within fifteen (15) minutes of the notification to the officer.  
8

9 C. Time worked shall be computed from the time of notification.  
10

11 D. When assigned to on-call primary and secondary status (with a pager) officers  
12 will receive eight (8) hours of straight compensatory time for each seven (7) days  
13 of such assignment. If an officer is assigned, by the department to be on call on a  
14 day-by-day basis, the officer will receive two (2) hours of straight compensatory  
15 time for every 24 hours of such assignment, not to exceed 8 hours in a week. The  
16 determination as to the need for the use of on-call status and how many officers  
17 are required will be made by the Chief of Police or his/her designee.  
18  
19

## 20 **SECTION 10. MEDICAL AND HOSPITALIZATION INSURANCE**

21  
22 The City provides certain voluntary group medical, hospitalization and dental  
23 insurance to its employees. The officer shall pay twenty percent (20%) of the premium  
24 cost for the employee and the employee's family if the employee elects to participate in  
25 one or more of the plans. The City will pay the remaining eighty percent eighty percent  
26 (80%) of the premium cost.  
27

28 Effective July 1, 2004, the City shall assume eighty three percent (83%) of the  
29 premium for the City approved Health and Dental Insurance Plans chosen by each  
30 employee. This commitment shall expire on June 30, 2005 unless the Union and the City  
31 renew it.  
32  
33

## 34 **SECTION 11. LIFE AND ACCIDENTAL DEATH AND DISMEMBERMENT BENEFIT**

35  
36 The City shall maintain the existing benefits for life and accidental death and  
37 dismemberment at no cost to the employee.  
38

## 39 **SECTION 12. INOCULATION AND IMMUNIZATION**

40  
41 If a police officer, while carrying out his/her duties, is exposed to a contagious  
42 disease, the City agrees to pay the expense for inoculation and immunization for  
43 members of the officer's family. The City further agrees to reimburse any officer covered

1 by one of the City' s H.M.O Programs any co-payment required for inoculation and/or  
2 immunization required due to the exposure to a contagious disease as a result of the  
3 officer carrying out his/her duties. This is subject to the review and approval of the Chief  
4 on the basis of documentation and verification presented by the employee to the  
5 employee health department and the Chief of Police.

6  
7 Should an officer miss duty as a direct result of exposure to a contagious disease,  
8 which resulted from carrying out his/her official duties, and the exposure is determined  
9 by the City medical authorities to be job-related, the time off will be charged to available  
10 injury time.  
11

### 12 **SECTION 13. INJURY PAY**

13  
14 A. An officer injured, or suffering an occupational disease while actually engaged in  
15 the performance of his/her duties and who, as a result of such injuries, receives  
16 benefits under the Workers' Compensation Act of New Mexico, shall be granted  
17 injury time from the date of injury as provided for under Section 3-1-15 "Injuries  
18 In Performance of Duty" of the Merit System Ordinance, as amended, and in  
19 effect on the date of the injury.  
20

21 B. Injury time may be extended for a period not to exceed 12 months beyond the  
22 current provisions of the Merit System Ordinance. This extension may be granted  
23 by the CAO upon the written request of an injured police officer subject to the  
24 following conditions being met:  
25

- 26 1. A certification, in writing, by the City selected doctor confirming, barring  
27 unforeseen medical complications, that the employee will be physically  
28 and mentally able to return to full, unrestricted duty on the previously held  
29 position within the requested extended injury time period.  
30
- 31 2. And that the Chief of Police recommends that the extension of injury time  
32 be granted.  
33
- 34 3. That the employee has not and will not refuse to:  
35
  - 36 a. Submit to medical examination by the City-selected doctors.  
37
  - 38 b. Perform a limited-duty assignment that is not detrimental to the  
39 officers condition or recovery as determined by the City' s doctors  
40 or the panel of doctors as set forth below (limited duty subsection  
41 applies to the period while on Injury Time).  
42

43 C. An officer who is terminated from the City for physical medical reasons, which  
44 were brought about as a result of and in the performance of the officer' s duties,  
45 will be eligible for reinstatement to the previous position held with the same rank

1 and grade restored if, within thirty-six (36) months from date of termination, the  
2 medical condition(s) responsible for the termination have been completely  
3 corrected and the officer is otherwise fit to perform as a police officer.  
4

5 D. No provision herein will restrict an officer so injured from applying for the  
6 additional leave period provided for under the hardship provision of the Merit  
7 System Ordinance.  
8

9 E. The parties agree that the officers injured in the line of duty are subject to the  
10 provisions of the Departments light duty/modified duty program.  
11  
12

#### 13 **SECTION 14. FUNERAL AND BURIAL EXPENSE**

14

15 The City agrees to defray funeral and burial expenses of any officer who dies  
16 while performing their law enforcement duties up to a maximum of nine thousand  
17 dollars, (\$9,000).  
18  
19

#### 20 **SECTION 15. LAYOFF AND RECALL**

21

22 A. In the event that layoffs are necessary, the City shall provide the Police  
23 Departments and the APOA with an opportunity to propose alternatives.  
24

25 B. When it is necessary to have a reduction in work force, officers will be laid off in  
26 reverse order of seniority within the Department.  
27

28 C. Officers laid off due to a reduction in force will be called back to work in their  
29 seniority order according to the following procedures:  
30

31 1. The City will advise the officer to be recalled by certified or registered United  
32 States mail. A copy of such recall notice will be furnished to the APOA.  
33

34 2. An officer, upon receiving notice of recall, within seven (7) days will  
35 acknowledge receipt by certified or registered mail advising the Chief of Police of the  
36 date he/she will be available for service, which available dates must not be later than  
37 twenty (20) calendar days from the date the officer receives the recall notice, unless there  
38 are extenuating circumstances.  
39

40 3. Officers failing to comply with this section will forfeit their recall rights to this  
41 position and be placed at the end of the recall list. Failure to report after the second recall  
42 notice will be considered an automatic resignation. It is understood that the City will  
43 have discharged its obligations of notification to laid-off officers by having forwarded  
44 recall notices as herein outlined.

1  
2 D. The City will not start a new academy police class until police officers, laid off as  
3 a result of a reduction in the work force, have been given an opportunity to return to  
4 work.

5  
6 E. The term seniority, for the purpose of this section, shall mean time in rank. In  
7 situations where officers are required to bump into a lower rank, the officer moving to the  
8 lower rank shall be considered senior in that rank.

9  
10 As officers are called back, the officers assigned to lower ranks will be returned to the  
11 former rank, in order of seniority, as the position becomes available.

12  
13 Employees on layoff status will not lose seniority as a result of being on layoff status.

14  
15 **SECTION 16. NO STRIKE**

16  
17 The Association, its elected officials, and members of the Association agree that they will  
18 not call, sanction, encourage, or participate in any way in any strike. For the purposes of  
19 this section, a person will be deemed a member of the Association if that employee is  
20 currently a member or if the employee has resigned his/her membership within sixty (60)  
21 days of the first day of a strike or during a strike.

22  
23 *Strike* shall be defined as stated in the City of Albuquerque Labor Management Relations  
24 Ordinance (Ordinance 67-1977).

25  
26 **SECTION 17. PAYROLL DEDUCTIONS**

27  
28 Officers will be required to sign up for pay by direct deposit. Paychecks will be cut for  
29 officers in cases where hardship would otherwise result.

30  
31 **SECTION 18. CHECKOFF AUTHORIZATION/FAIR SHARE**

32  
33 A. The City shall, for the duration of this Agreement and for any officer, who  
34 submits authorization thereof, deduct from such officer' s pay for each pay period of each  
35 month Association dues in an amount specified.

- 1 B. The City shall pay the amount withheld to the Association.
- 2
- 3 C. The Union shall indemnify, defend, and save the City harmless against any and all  
4 claims, demands, suits or other forms of liability that shall arise out of or as a result of  
5 any conduct taken by the City for the purpose of complying with this section.
- 6
- 7 D. Payment of an agency fee by non-union bargaining unit employees has been  
8 authorized by Resolution of the Albuquerque City Council; and Resolution requires that  
9 any agency fee provision negotiated pursuant to the Resolution comply with all state and  
10 federal legal requirements.
- 11
- 12 1. The APOA will retain an independent auditor to audit its receipts and  
13 expenditures for the previous 12 months and once every 12 months thereafter.
- 14
- 15 2. The APOA will publish the results of the audit, including an adequate explanation  
16 of the agency fee to bargaining unit members.
- 17
- 18 3. Bargaining unit members shall have 30 days to file a challenge to the  
19 apportionment of the agency fee.
- 20
- 21 4. Any challenge shall be heard by an impartial decision maker.
- 22
- 23 5. The amount of the agency fee shall only include costs, which arise from the  
24 negotiation and administration of the collective bargaining agreement and the adjustment  
25 of grievances or prohibited practices charges filed by the APOA.
- 26
- 27 6. Under no circumstances shall non-union bargaining unit members be required to  
28 contribute towards the APOA social, political or charitable activities, nor shall any  
29 bargaining unit member be subject to any retaliation for refusal to contribute to such  
30 activities.
- 31
- 32 7. The APOA has the burden at all times of proving that its costs were properly  
33 apportioned to the agency fee.
- 34
- 35 8. Any portion of the agency fee, which is specifically challenged shall be held in  
36 escrow until resolution of the challenge.
- 37

1 9. The APOA will indemnify and hold the City harmless, including payment of  
2 attorney fees and costs for counsel chosen by agreement of the parties for any claim or  
3 challenge to this Section or the imposition of an agency fee;

4  
5 10. Once the appropriate amount of the agency fee for the previous 12 months has  
6 been determined, the City agrees to deduct that amount from the pay of bargaining unit  
7 members for the subsequent 12 months.

8  
9 11. The City shall make such fair share payment deductions for employees in the  
10 Union' s bargaining unit who do not submit an authorization from for Union dues  
11 deduction, as otherwise provided for by the current collective bargaining agreement.

12  
13 12. The City shall make employee payroll deductions for fair share payments upon  
14 notification to the non dues-paying bargaining unit employee of the amount and reason  
15 for such payment.

16  
17 13. All money deducted from wages for fair share payment shall be remitted to the  
18 Union after payday covering the pay period of deduction. If any employee has  
19 insufficient earnings for the pay period, no fair share payroll deduction will be made for  
20 that employee for that pay period.

21  
22 14. If as a result of litigation, changes to this Section become necessary, the parties  
23 will meet to negotiate the issues.

24  
25 **SECTION 19. ASSOCIATION REPRESENTATIVE**

26  
27 The Association' s President and Vice President will be assigned to a day shift  
28 administrative position as determined by the Chief of Police on the basis of the education  
29 and expertise. The Association Representative will be allowed reasonable time during  
30 working hours to handle grievances and application of this Agreement except any  
31 political activity or civil proceeding beyond the Personnel Board, Labor Board or the  
32 internal department grievance process.

33  
34 The Association's President and Vice -President will be allowed leave with pay to  
35 assist with the resolution with Labor/Management issues. The Union Vice-President will  
36 be limited to 20 hours a week with or without pay per this section. The Union shall  
37 notify the Chief of Police or his/her designee and obtain approval when requesting leave  
38 under this section.

1 In the event that an investigation results in the implementation of disciplinary action, if  
2 the investigated employee so requests, the APOA may designate up to two (2)  
3 representatives to participate at all stages of the proceedings. The employee shall be  
4 provided with copies of the charges and decision. In all cases where a formal grievance  
5 over discipline has been filed with the CAO by a bargaining unit employee who is not  
6 represented by the APOA President or his/her designee, the City will notify the APOA  
7 President.

8  
9 The City will grant reasonable time to a members' chosen representative to be present  
10 with the officer at any interview, interrogation, or investigation called for by the City.

11  
12 All leave with or without pay taken under this section will be properly documented and  
13 approved on a Form P-30.

## 14 15 **SECTION 20. RULES AND REGULATIONS**

16  
17 The employer reserves the right to develop and implement such directives rules and  
18 regulations as may be deemed necessary to the employer for the conduct of affairs of the  
19 Department.

20  
21 The Association (APOA) agrees that the employees shall be bound by and obey such  
22 directives, rules, and regulations insofar as the same do not conflict with this Agreement,  
23 the laws of the United States, the laws of the State of New Mexico and/or the laws of the  
24 City of Albuquerque. Under normal circumstances, the Association will be given written  
25 notice of proposed changes to Department directives, rules, and regulations that directly  
26 affect the wages, hours, and working conditions of bargaining unit members and may  
27 submit written input to the Chief within fourteen (14) days.

28  
29 An M.O.U. between the parties must be reached and executed in the case where either  
30 party wishes to change or amend a policy which would be in conflict with the provisions  
31 of this Agreement.

## 32 33 **SECTION 21. PROBATION PERIOD**

34  
35 A. The probationary period for Albuquerque Police Officers except sworn officers  
36 who are PERA Retirees shall be twelve (12) months from the date of graduation from the  
37 Albuquerque Police Academy, whether or not such appointee has been previously  
38 employed by the City. A PERA Retiree Officer who has been hired as a sworn officer by  
39 the City will serve an eighteen (18) month probationary period from the date of PERA  
40 Retiree Officers hire whether or not the PERA Retiree Officer has been previously

1 employed by the City. Discipline or termination of a probationary officer is not a  
2 grievable issue under the terms of this Agreement.

3  
4 B. APD lateral transfers from agencies outside the City, who do not attend the  
5 Albuquerque Police Academy, will serve a probationary period of sixteen (16) months  
6 from the date of hire.

7  
8 C. APD Lateral transfers from agencies outside the City, who attend the full  
9 Albuquerque Police Academy, will serve a probationary period of one year from the  
10 successful completion of the Academy.

11  
12 D. For purposes of this section, Aviation Police and Open Space Rangers shall serve  
13 a probationary period of one year from date of hire.

14  
15 E. APD officers, Aviation Police and Open Space Rangers who laterally transfer  
16 between departments shall serve a one year trial period. The trial period shall be used to  
17 closely evaluate the Officer's work.

18  
19 1. At any time during the trial period, an Officer may be dismissed for any reason  
20 which is not prohibited by law. Such dismissal shall not be subject of a grievance.

21  
22 2. An Officer dismissed during his/her trial period shall be entitled to reinstatement  
23 as an officer in his/her former department, if a vacancy exists. An Officer shall retain  
24 rehire rights for a period of three (3) months from the date of his/her dismissal during the  
25 trial period. During the rehire period, the Officer shall have the right to be offered any  
26 entry-level vacancy, subject to the provisions of Section 3-1-7 B of the Merit System  
27 Ordinance. It is the responsibility of the Officer to keep the City informed as to his/her  
28 current address and telephone number. If an Officer is offered a rehire and fails or  
29 refuses to report back to work, the officer shall lose any further rehire rights.

30  
31 3. An Officer rehired under this subsection shall not be required to serve a  
32 probationary period. In all other respects, an Officer rehired under this subsection shall  
33 be treated as a new hire, and the Officer's seniority date shall be his/her date of rehire.

34  
35 **SECTION 22. SENIORITY**

36  
37 A. Except for sections, which contain specific different definitions such as Section  
38 15 (Lay off and Recall) of this Agreement, for this Agreement, seniority is defined as  
39 follows:

1  
2 1. Higher ranks have seniority on junior ranks. The officer with the most continuous  
3 service within rank is senior within that given rank. For the purpose of breaking a tie on  
4 seniority, the first criteria to be applied shall be continuous service with the Albuquerque  
5 Police Department, with the officer with the most continuous time being senior. Should  
6 the continuous service with the Department be identical, then the tie will be broken by the  
7 use of the employee numbers or lottery numbers, whichever is applicable. The officer  
8 with the lowest number is senior. The term continuous service shall be interpreted to  
9 mean total service from the date of last hire as a sworn police officer.

10  
11 2. Departmental seniority for non-supervisory personnel will be the only recognized  
12 method of establishing seniority within a unit, section, division, or bureau.

13  
14 B. For the purpose of establishing seniority for entry into the bargaining unit  
15 beginning with the 55th, 56th, and 57th Cadet Classes and all classes thereafter, seniority  
16 will initially be established by using the following method:

17  
18 1. Highest seniority within the class will be given to those cadets who were in the  
19 employment of the Police Department, when they were accepted into the Police  
20 Academy. If there is more than one cadet with the same date of hire, their seniority will  
21 be determined by their overall class standing between them.

22  
23 2. The remaining cadets will be assigned seniority by overall class standing upon  
24 graduation. The cadet who had the highest overall class standing in the group will be  
25 given the highest seniority within the cadet class.

26  
27 3. Final seniority will be determined when an officer becomes non-probationary.

28  
29 4. The final seniority standing is not subject to grievance.

30  
31 C. When section cut backs occur, the mandatory transfers between units should be  
32 made in such a way as to maximize the efficiency and effectiveness of the Police  
33 Department. In making such transfer decisions, the following facts shall be considered:

34  
35 1. The nature of the transfer and the skill it calls for within the unit being transferred  
36 to;

37  
38 2. The availability of pre-qualified persons;

3. The stated assignment preferences; and

4. All other factors being equal, seniority of members of the bargaining unit.

5. If within one year a unit that was cut back is increased in size, the officer subjected to mandatory transfer will be given at their option the opportunity to return prior to any other effort to increase in size.

#### D. Bidding:

1. Unless there is justifiable cause (i.e. for efficiency, discipline or general conduct), bidding by APD lieutenants, sergeants and patrolmen for assignment based on seniority City wide will occur every twelve (12) months. Lieutenants will bid first, sergeants will bid second and patrolmen will bid third. Bidding is for shift, days off, squad and area command. This applies to officers taking calls for service. Traffic officers and field investigators will bid within their sections first. The bid for traffic officers and field investigators will occur every six (6) months, and take effect on the first day of the pay period closest to March 1 and September 1. The assignments of PERA Retiree Officers shall be recognized as "justifiable cause" for exemption from bidding. PERA Retiree Officers shall participate in a separate bid from other officers. PERA Retiree Officers shall bid on the following positions: a maximum of two (2) positions per team in the Field Services Bureau; a maximum of four (4) positions in each of the Juvenile, Property Crimes and Violent Crimes Divisions of the Criminal Investigations and Scientific Evidence Divisions of the Criminal Investigations Bureau; a maximum of six (6) positions in the Selection and Training Division of the Administration Services Bureau and a maximum of one (1) position in each of the Internal Affairs, Court Services, Technical Services and Accreditations Divisions of the Administrative Services Bureau. The PERA Retiree officer staffing levels set forth herein shall not result in a reduction of staffing assignments offered other officers. This subsection is subject to change pending negotiations between the Chief of Police and the Albuquerque Police Officers' Association. Any such changes will be reflected on an MOU signed by both parties and made a part of this agreement.

2. Nothing in this section shall prevent an area commander from permitting employees to mutually exchange bidded slots for hardship reasons.

3. The current bid will remain in effect until March 22, 2004. The subsequent bids shall remain in effective for one year each.

#### E. Open Space and Aviation

1. For Aviation and Open Space Departments, sergeants and officers other than PERA Retiree Officers will bid for assignment based on seniority and the bidding will occur every six (6) months. Sergeants will bid first, followed by the officer's bid. Bidding is for shift, days off, overtime, and vacation. PERA Retiree Officers shall not participate in the bid. The Department Director/Chief will assign the PERA Retiree Officers after meeting and conferring in good faith with the affected employee and the APOA. The Department Directors or Chiefs decisions shall not be subject to challenge under this Agreement's Grievance Procedure.

F. An employee who voluntarily leaves the department and is rehired after ninety (90) days will be placed at the bottom of the non-probationary seniority list. An employee who is rehired within ninety (90) days will retain all seniority.

G. For promotional purposes, final score standing in the promotional process will determine the seniority for being promoted off the list. In the event of a tie, departmental seniority will break the tie.

## **SECTION 23. ADMINISTRATIVE INVESTIGATIONS**

To insure that investigations are conducted in a manner conducive to public confidence, good order, discipline, good management practices, and recognizing the individual rights of each member of the force, the following guidelines are hereby established.

A. The interrogation of any officer shall be at reasonable hours, preferably when the officer is on duty and during the daylight hours unless the exigencies of the investigation dictate otherwise as determined by the City.

B. The interrogation shall take place at a location designated by the investigating officer, usually a police department facility.

C. The name of the charging officer, complainant, or citizen making the charge shall be disclosed if this information is known to the officer conducting the investigation. If this information is not known, this shall also be disclosed. Disclosure of the complainant's name will not be required if revealing his/her name jeopardizes the investigation; however, once the investigation is completed, the name(s) of the complainants will be revealed at the request of the officer who was under investigation along with a copy of the official complaint, signed or unsigned.

1. *Official* complaint shall be defined as any complaint made by a citizen where the complainant provides his name, address, and telephone number and the complainant has completed a signed statement. The signed statement will not be required where the complainant is a member of the department. Complaints will also be classified as official

1 if the complainant refuses to complete a signed statement and the charge is of such a  
2 serious nature as to warrant investigation, or the charge is of a criminal nature.

3  
4 2. *Unofficial* complaints shall be defined as any complaint of a non-criminal nature  
5 made by a citizen where the complainant refuses to complete a signed statement. The  
6 Department will not conduct administrative investigations into unofficial complaints of a  
7 non-criminal nature. The Department is not prohibited from conducting a preliminary  
8 investigation to determine if allegations are in fact true. This may result in an unofficial  
9 Complaint being elevated into an official complaint.

10  
11  
12 D. The officer shall be informed of the nature of the investigation before any  
13 interrogation commences. Prior to any administrative interview being conducted  
14 sufficient information shall be disclosed to reasonably apprise the officer of the  
15 allegations. This information will be provided to the target officer(s) in writing via  
16 certified US Mail. Through the course of the investigation, additional issues of concern  
17 may arise that may be incorporated into the investigation.

18  
19 If it is known that the member being interrogated is a witness only, he/she shall be so  
20 informed. If the officer(s) being questioned may be the subject(s) of the investigation,  
21 this fact shall be immediately disclosed prior to any questioning.

22  
23 E. The interrogation shall be completed as soon as possible and the actual  
24 interrogation shall be limited as follows:

25  
26 1. On-duty and off-duty personnel: Maximum of two, (2) two-hour sessions within  
27 any twenty-four (24) hour period with a one (1) hour break between sessions. In no event  
28 shall the officer's tour of duty and interrogation exceed fourteen (14) hours unless both  
29 parties agree to continuation of the sessions.

30  
31 2. In all instances, in addition to the one-hour break provided for in "1" above, time  
32 shall be provided for personal necessities, telephone calls, and rest periods as are  
33 reasonably necessary.

34  
35 F. Only two interrogators, the involved officer and his/her representatives (up to  
36 two) will be allowed to participate, observe or monitor the interrogation. Others may be  
37 allowed by mutual consent.

38  
39 The officer shall not be subjected to any offensive language, coercion, or promise of

1 reward as an inducement to answering questions. Nothing herein is to be construed to  
2 prohibit the investigating officer from informing the officer that his/her conduct can  
3 become the subject of disciplinary action.

4  
5 G. The complete interrogation of the member shall be recorded mechanically or by  
6 stenographer. There will be no "off-the-record" conversations except by mutual  
7 agreement. All recesses called during the investigation shall be noted in the record.  
8 Nothing discussed "off-the-record" during the administrative interrogation shall be used  
9 as part of the administrative interrogation, investigation, or official file, or shall be  
10 submitted for any official action.

11  
12 H. If a member is under arrest or is likely to be; that is, if he/she is a suspect or the  
13 target of a criminal investigation, the criminal investigation shall not be handled by the  
14 Internal Affairs Unit, but by a criminal investigative unit of the Police Department and/or  
15 an appropriate Law Enforcement Agency with jurisdiction over the matter in question.  
16 The officer shall be given his/her rights pursuant to the Miranda Decision or applicable  
17 law. Should the officer decide to exercise his/her Miranda Rights, the Department is in  
18 no way limited from taking any administrative and/or criminal action regarding the  
19 incident, provided however, that no administrative and/or criminal action will be based  
20 on the officer' s exercise of his/her Miranda or any other legal rights.

21  
22 I. The officer shall be given an exact copy of the written statement he/she may  
23 execute, or if the questioning is mechanically or steno graphically recorded, the member  
24 shall be allowed to provide his/her own mechanical recording device.

25  
26 J. An officer must, as a condition of continuing employment, truthfully answer any  
27 and all questions relating to the matter under investigation whether the officer is a subject  
28 or a witness to the matter. The determination of whether a question is relevant to the  
29 matter under investigation shall be made solely by the Internal Affairs officer conducting  
30 the investigation. All compelled statements will remain confidential and will only be  
31 used for the Independent Review Officer' s investigation. Unless the City is ordered to  
32 release the documents pursuant to an order issued by a court of competent jurisdiction,  
33 the compelled statements will only be released to Internal Affairs, the Chief of Police, the  
34 City Attorney, the Independent Review Officer, the involved officer and his/her  
35 representative. Information from a compelled statement will not be made public by the  
36 city.

37  
38 The Independent Review Officer may prepare an investigative summary of  
39 discipline administered by the Department. The only information released to the Police  
40 Oversight Commission, will consist of the alleged charges, disposition of the case (i.e.  
41 findings of sustained/non-sustained), and any discipline imposed.

1 If a complainant citizen appeals the discipline that has been issued to the target  
2 officer, the investigative file, minus the compelled statements, may be forwarded to the  
3 Police Oversight Commission for its review.

4  
5 If an appeal is taken, the Independent Review Officer may provide a summary of  
6 conclusions to the Police Oversight Commission. The summary would be in his/her own  
7 words and would be a synopsis of the investigation. The summary of conclusions shall  
8 not contain any direct quotes, statements or actual language as contained within the  
9 compelled statement.

10  
11 Any information released to the Police Oversight Commission shall not contain  
12 information that identifies sworn department personnel; this includes any report  
13 completed by the Independent Review Officer, and any statements by complainants,  
14 witnesses, target officers, suspects, etc. An officer can allow portions or summaries of  
15 his/her compelled statements to be released to the Police Oversight Commission if he/she  
16 chooses. Should the officer choose not to release summaries or the compelled  
17 statements, this cannot be considered as a lack of cooperation in the process. The Chief  
18 of Police will have access to all compelled statements for the purpose of disciplinary  
19 decisions.

20  
21 Nothing contained herein shall be the basis for an individual waiving his/her Fifth  
22 Amendment rights under the Constitution of the United States of America.

23  
24 1. The Association will, upon direction of the Chief of Police or the Chief's  
25 designee, comply with the Police Oversight Ordinance by submitting to interrogations in  
26 connection with administrative investigations by the Independent Review Officer and/or  
27 full-time investigators employed by the City.

28 2. The named administrative investigators shall be bound by all the provisions of  
29 this section of the Collective Bargaining Agreement and by all confidentiality provisions  
30 in the Police Oversight Ordinance currently in effect.

31 3. The provisions of this article shall not be interpreted in a manner which violated  
32 those rights guaranteed by the Garrity vs. New Jersey or subsequent decisions.

33  
34 K. The Department shall afford an opportunity for an officer, if he/she so requests, to  
35 consult with counsel before being questioned, provided the interrogation is not delayed  
36 for more than two hours. Counsel and another person of his/her choice who is a member  
37 of the bargaining unit may be present during the interrogation.

38  
39 All interviewing shall be limited in scope to activities, circumstances, events, conduct or  
40 acts, which pertain to the incident, which is the subject of the investigation. Nothing in

1 this section shall prohibit the employer from questioning the employee about information,  
2 which is developed during the course of the interview.

3  
4 The representative may ask for a question to be repeated or restated for clarification  
5 purposes.

6  
7 The representative may also object to any question they feel is inappropriate, and state  
8 into the record the reasons why. The interviewer will consider the objection and the  
9 question asked.

10  
11 At the end of the interview, the interviewer will allow the employee or representative the  
12 opportunity to make any additional comments or provide any information they deem  
13 necessary.

14  
15 If the officer's representative(s) disrupts the interview process, the representative  
16 may be removed. If an officer's representative is removed, the officer may be allowed up  
17 to two (2) hours to obtain another representative before the interview is continued.

18  
19 If a representative is removed, the APOA President or his/her designee will be  
20 notified and provided a copy of the audiotape of the interview within four calendar days.  
21 The APOA President may request a meeting with the Internal Affairs Commander to  
22 discuss the matter.

23  
24 L. When available, before an administrative investigator interrogates an officer as a  
25 direct result of an official complaint by a citizen whose identity is known, that citizen  
26 shall be required to sign a statement clearly stating the allegation. The basic information  
27 on the complaint shall be provided to the officer at the same time of the interrogation.

28  
29 M. In the event it is determined that the complainant falsified his/her statements, the  
30 City may take whatever action it deems appropriate and the officer may at his/her  
31 discretion pursue whatever legal remedies are available.

32  
33 N. The Chief, and only the Chief, may order or request a polygraph examination.  
34 Unless there are extenuating circumstances, deception detection examinations shall be  
35 employed only after:

36  
37 1. The Chief has carefully reviewed the entire case;

2. All investigative leads have been exhausted;

3. The APOA President, or his designated representative, has been briefed on the facts of the case and the reasons for ordering the polygraph examination. The APOA President will receive a copy of the entire case with reasonable review time. The APOA will be given reasonable time to suggest (on the record) any investigative leads that need to be followed.

4. The citizen complainant has submitted to and passed such an examination.

5. A copy of the polygraph examination shall be provided to the accused officer immediately following the examination. A copy of the independent evaluator's report shall be provided to the accused officer immediately upon receipt with the Department. When the polygraph examination is used, the accused officer and APOA will be advised 24 hours in advance, in writing, prior to the administration of the polygraph test.

O. In all cases where a sworn member becomes aware of a violation of the S.O.P or a violation of federal, state, or municipal law that is or is likely to lead to an investigation, Internal Affairs must be notified.

P. Any administrative investigation will be completed within 90 days. The 90 day period shall not include time for review. An extension of up to 30 days may be granted but will only be obtained in writing and approved by the Chief of Police. A copy of the approval will be sent to APOA. The review process shall be completed within 30 days.

Q. Officers who are the subject of an investigation shall be provided with written notification as to the disposition of the investigation within fourteen (14) days.

R. As soon as an officer is determined to be the subject of an administrative investigation, he/she will be notified unless this disclosure would jeopardize the investigation.

S. Upon final adjudication of charge number LB-01 \*\*\*, challenging certain amendments to the Police Oversight Ordinance, currently pending before the City of Albuquerque Labor Management Relations Board, the city and the Union will meet to negotiate any amendments to this Section that may be necessitated by the adjudication.

1    **SECTION 24. LEGAL PROTECTION**

2  
3    A.     Should a police officer be sued in a civil action for any allegations arising out of  
4    the course and scope of the officer' s employment, the City will defend and indemnify that  
5    officer pursuant to the requirements of the New Mexico Tort Claims Act, Section 41-4-1  
6    et. seq., NMSA 1978, as amended.

7  
8    B.     The city will notify the officer prior to the first interview with the City Attorney if  
9    there is any conflict of interest between the city and the officer or if the city intends to  
10   dispute that the officer was in the course and scope of employment at the time of the  
11   incident on which the complaint is based. If a conflict exists or if the city intends to  
12   dispute that the officer was in the course and scope of employment, the officer, an APOA  
13   Representative and/or Association Attorney, and the City Attorney must meet and confer  
14   to address the conflict or the dispute. Additionally, if the officer perceives a conflict of  
15   interest the officer, an APOA Representative and the City Attorney must meet and confer  
16   to address and resolve the conflict.

17         In the event the officer is notified of a conflict of interest or dispute that the  
18   officer was in the course and scope of employment, there shall be no interview between  
19   the officer and the City Attorney until such time as the officer is represented by counsel  
20   and/or consents to an interview.

21         If a conflict of interest is identified, the City will provide a contract attorney from  
22   a list compiled by the City Attorney's office. If the officer agrees to waive the conflict,  
23   the city must have this waiver in writing.

24         No information provided by an officer to the City Attorney's office or any agent  
25   of that office shall be used in any disciplinary or criminal action against the officer.

26  
27   C.     It is understood by the parties that it is against public policy to defend an officer  
28   in a criminal suit once the officer is indicted for a criminal act.

29  
30   D.     In the event an officer is sued in a civil action in which punitive damages are  
31   alleged, and the officer was not personally served with the summons and complaint, it  
32   shall be the duty of the City to notify the officer, in writing (either personally or through  
33   the APOA representative), within thirty (30) days of the receipt of the suit by the City  
34   Attorney' Office of the potential personal exposure of the officer for punitive damages.  
35   This provision shall only apply to suits filed after the effective date of this contract.

36  
37   E.     The officer shall have the right to consult the attorney of the officer' s choice ~~after~~  
38   notifying the City Attorney's office regarding a lawsuit to which the officer is a party at  
39   City expense up to \$300.00 per lawsuit.

1 F. The City further agrees to communicate to the officer' s chosen attorney, once the  
2 officer' s attorney has notified the City Attorney in writing of his/ her representation, any  
3 and all settlement offers communicated by the plaintiffs attorney. The City likewise  
4 agrees to meet in good faith with the officer' s chosen attorney to discuss such settlement  
5 offers, upon the request of the officer' s chosen attorney.

6  
7 G. Should an officer have punitive damages awarded against him/her by a judge or  
8 jury, the City agrees to appeal that judgment should cause exist in the discretion of the  
9 City.

10  
11 H. If the City, or its insurer, declines to defend and indemnify an officer because the  
12 City believes that officer acted outside the course and scope of the officer' s employment,  
13 the City, or its insurer, agrees to pay the reasonable hourly attorney' s fees of an attorney  
14 of the employee' s choice (up to \$150.00 per hour) to litigate in a declaratory judgment  
15 action the issue of whether the conduct was within the course and scope of the officer' s  
16 employment. If such a declaratory judgment action is decided favorably to the officer,  
17 that is, if it is determined that the officer was acting within the course and scope of the  
18 officer' s employment, then the City, or its insurer, will defend and indemnify the officer,  
19 pursuant to the New Mexico Tort Claims Act 41-4-1 et. seq., NMSA 1978, as amended.

20  
21 I. For purpose of this section and Agreement, the phrase course and scope of  
22 employment means the lawful acts, which an officer is requested, required, or authorized  
23 to perform by the City.

24  
25 J. Nothing herein shall bar the use in Court of case law and common law in the  
26 resolution of any dispute arising out of an interpretation of the New Mexico Tort Claims  
27 Act 41-4-1 et. seq., NMSA 1978.

28  
29 K. It is understood by the parties that a breach of this Agreement shall not, in itself,  
30 cause the City to be liable for any punitive damages arising out of any suit to which the  
31 officer is a party.

32  
33 L. The APOA President or his/her designee will be placed on the call out roster for  
34 any officer involved in a shooting. The Department shall place the APOA President or  
35 the President's designee on the APD Communications call out protocol list.

36  
37 **SECTION 25. GRIEVANCE AND APPEAL PROCEDURES**

38  
39 A. The purpose of this procedure is to secure, in an atmosphere of courtesy and  
40 cooperation and at the lowest possible administrative level, an equitable solution to the

1 problems, which may arise. A grievance or appeal should first be discussed with the  
2 aggrieved person's immediate supervisor with the objective of resolving the matter  
3 informally.

4  
5 B. *Grievances* and *Appeals* are formal complaints of employees concerning actions  
6 taken by management, which result in loss of pay or seniority, or in written reprimand.  
7 Other complaints officers have about working conditions, rules and regulations,  
8 promotions and transfers must be made through the chain of command.

9  
10 C. Since it is important that grievances be resolved as rapidly as possible, time limits  
11 given shall be considered as maximum and every effort shall be made to expedite the  
12 process. In the event that the last day of a time limit falls on a weekend or a legal holiday  
13 as defined herein, the time limit shall include the next working day.

14  
15 D. Refusal to appear and participate in a grievance or appeal proceeding at any  
16 formal stage in a proceeding shall result in forfeiture of the right to grieve or appeal. As  
17 a condition of employment, employees are required to appear as witnesses in grievances  
18 and appeal hearings when requested by the aggrieved employee or by members of the  
19 City administrative staff.

20  
21 E. Before taking action which could result in loss of pay or seniority or in a written  
22 reprimand, a Chief of Police, the Chief's designee, or in the case of Aviation or Open  
23 Space officers, the appropriate department director or his designee may call for an  
24 informal review of the circumstances surrounding the proposed action. An officer who is  
25 aggrieved by such action may appeal the decision to the Chief of Police, the Chief's  
26 designee, or in the case of Aviation or Open Space officers, the appropriate department  
27 director or his designee within ten (10) calendar days of the action being taken. A  
28 supervisor contemplating discipline shall not be required to submit the issue to the City  
29 Mediation Program Coordinator prior to the employee's response to the discipline.

30  
31 The decision of the Chief of Police, the Chief's designee, or in the case of  
32 Aviation or Open Space officers, the appropriate department director or his designee may  
33 be grieved or appealed through the procedures set forth in this Section.

34  
35 F. Disciplinary action in the form of a suspension may be implemented immediately  
36 or postponed pending the outcome of a grievance or appeal. The decision by the Chief of  
37 Police, the Chief's designee, or in the case of Aviation or Open Space officers, the  
38 appropriate department director or his designee as it relates to the immediate  
39 implementation or postponement of the suspension will be made on a case by case basis,  
40 and shall not be considered to set precedent.

1 G. An attempt will be made to notify an officer in a disciplinary action in every day  
2 language and not track the language of a criminal statute or criminal ordinance. No  
3 specific language is required to meet any jurisdictional test. The language need only be  
4 specific enough to notify the officer of the alleged misconduct. This section will not limit  
5 the City from pursuing any criminal charges against the officer.

6  
7 H. Participation in the City Mediation Program shall be voluntary. The member may  
8 elect mediation or he/she may bypass the City Mediation Program and the additional  
9 review by the Chief of Police, the Chief's designee, or in the case of Aviation or Open  
10 Space officers, the appropriate department director or his designee.

11  
12 I. Written reprimands will not be grievable through the Chief Administrative Officer  
13 as per the Merit System Ordinance 3-1-23, reference Grievance Procedure. The  
14 following will be the process for written reprimands.

15  
16 1. Unless there is a request for mediation, the parties will not be required to submit  
17 written reprimands through the City Mediation Program.

18  
19 2. A written reprimand will only be determined and issued through the employee' s  
20 chain of command.

21  
22 3. A written reprimand will be appealed to the appropriate deputy chief of the  
23 issuing individual who determined and issued the reprimand. This will be the employee' s  
24 opportunity to respond to the discipline. This appeal may be in writing or in person and  
25 must occur within 10 days after the employee receives and has the opportunity to sign for  
26 the reprimand. The decision of the deputy chief will be final. For Open Space officers,  
27 the appeal will be made to the Chief.

28  
29 4. The discipline will be considered imposed after the final decision of the  
30 appropriate deputy chief or chief. If there is no request for review the discipline will be  
31 considered imposed after the ten day period passes.

32  
33 5. The Chief of Police, the Chief's designee, or in the case of Aviation or Open  
34 Space officers, the appropriate department director or his designee within the Department  
35 has the sole authority to discipline.

36  
37 J. A written reprimand will be purged from all files within one year of the date of  
38 the incident. A written reprimand will not be considered for transfer or in the  
39 promotional process. If a written reprimand is used for progressive discipline, the Ad  
40 Hoc Grievance Committee may consider the underlying issues in determining the

1 appropriateness of the progressive discipline.

2  
3 K. *Grievances.* Grievances involving discipline resulting in a suspension of 40 hours  
4 or less and transfers as a result of a disciplinary action will be appealed through the  
5 following process.

6  
7 1. Step One. Unless there is a specific request the parties will not be required to  
8 submit grievances or appeals through the City Mediation Program or through the Chief of  
9 Police, the Chief's designee, or in the case of Aviation or Open Space officers, the  
10 appropriate department director or his designee. If there is no request for mediation or  
11 for review by the Chief of Police, the Chief's designee, or in the case of Aviation or Open  
12 Space officers, the appropriate department director or his designee, the employee may  
13 initiate a grievance in Step Two.

14  
15 2. Step Two. The employee initiates the grievance by submitting a written  
16 grievance to the Chief of Police, the Chief's designee, or in the case of Aviation or Open  
17 Space officers, the appropriate department director or his designee within (10) days of the  
18 date the employee was notified of the discipline. The written grievance shall contain the  
19 employee's name, rank, current assignment, immediate supervisor, date of the incident  
20 leading to the discipline, statement of the grounds for grievance and relief the employee  
21 is requesting.

22  
23 3. Within ten (10) days of the date the grievance is submitted, an *Ad Hoc* Grievance,  
24 Committee shall be selected to hear the dispute and determine a resolution. The *Ad Hoc*  
25 Grievance Committee shall be selected as follows:

26  
27 a. The City and the Association will each select one (1) officer senior in rank to the  
28 Grievant and one (1) officer equal in rank to the Grievant. The City and the Association  
29 shall each have the opportunity to recuse up to two (2) recommended appointees from the  
30 opposite party. These four (4) Committee Members will then select a neutral (fifth  
31 member) at the rank of Lieutenant or above, who will act as Chair and vote in the event  
32 the committee has a tie vote. The neutral appointed by the committee will be required to  
33 serve, unless he/she requests to be excused for good cause as determined by the Chief of  
34 Police. For Aviation Police and Open Space Rangers, the Chair shall be senior in rank to  
35 the Grievant, and selected from the Grievant's department.

36  
37 b. Personnel who are part of the incident or the investigation shall not serve on the  
38 committee nor shall anyone not involved in the hearing be permitted in the hearing room  
39 unless both parties otherwise agree. Either party may request that the proceedings be  
40 closed.

1 c. There will be no employer/subordinate relationship within this committee and all  
2 members will have equal standing.

3  
4 4. The Ad Hoc Grievance Committee shall hold an informal hearing on the  
5 grievance. The hearing shall comply with Section 29-14-6 N.M.S.A. The Committee  
6 shall vote on the issues before them and a majority vote shall be required.

7  
8 5. The jurisdiction of the committee shall be limited to either accepting, rejecting, or  
9 modifying the disciplinary action. The decision of the Ad Hoc Committee will be final  
10 and binding.

11  
12 a. The purpose of this informal Grievance hearing is to expedite due process  
13 internally and to allow the aggrieved the opportunity to present his/her case before a  
14 group of his/her peers.

15 b. The aggrieved and the department shall each select one (1) person to present their  
16 case. The aggrieved officer shall either choose a representative provided by the  
17 Association or shall present without representation.

18 c. The department and the aggrieved will be permitted to introduce any relevant  
19 documents, witnesses, or other evidence to support their case and they may cross-  
20 examine any witness during the informal grievance hearing.

21 d. Due to the informality of the hearing, and past practice, neither party may be  
22 represented by legal counsel.

23 6. The Chief of Police, the Chief's designee, or in the case of Aviation or Open  
24 Space officers, the appropriate department director or his designee within the Department  
25 has sole authority to discipline.

26  
27 L. *Appeals.* Appeals involving discipline resulting in suspensions of more than 40  
28 hours, demotion or discharge, will be appealed in accordance with the provisions of  
29 Section 3-1-24 of the Merit System Ordinance.

30  
31 M. The Chief of Police or his designee has the option on a suspension of five (5) days  
32 or less to prohibit the employee from the workplace or to allow the employee to work  
33 through the suspension with pay.

34  
35 N. The employee may file a written response to any document containing adverse  
36 comments entered into his/her personnel file. The written response shall be attached to  
37 the document.

1    **SECTION 26. EMPLOYEE'S PERSONNEL FILE**

2  
3    A.     A copy of any material pertaining to an employee' s performance or to disciplinary  
4    actions to be placed in the employee' s personnel files must be presented to the employee  
5    for signature and review.

6  
7    B.     By arranging an appointment in advance, employees shall be allowed to review  
8    the contents of their Department personnel file during working hours. Reasonable  
9    requests for copies or documents in the file shall be honored and reasonable charges  
10   made for such copies.

11  
12   C.     Only the personnel files kept in the Human Resources Department and the  
13   department where the employee is currently assigned will be used for interdepartmental  
14   interviews.

15  
16   D.     Employees shall have the right to submit written responses to all derogatory  
17   documents placed in their Human Resources or Departmental file within each  
18   department. Such written responses will be placed in the appropriate file. Derogatory  
19   material may be purged within 12 months from the employee' s departmental file at the  
20   department head' s discretion.

21  
22   E.     Human Resources Department files are a permanent record of an employee' s  
23   performance with the City of Albuquerque. Such files will not be purged. However,  
24   employees who have been cleared of any charges shall not have reference of these  
25   charges included in their permanent personnel file.

26  
27   F.     It is hereby recognized that, upon written notification by the employee, the  
28   Association will be allowed to view his/her file.

29   G.     The Association President or designee may request to meet with the Department  
30   Director to mediate disputes concerning purging of derogatory material from the Human  
31   Resources Department files.

32  
33   **SECTION 27. ELECTIONS AND APPOINTMENTS**

34  
35   The City will notify the Association of elections or appointments to the City' s Labor  
36   Relations Board and the Personnel Board.

37  
38   **SECTION 28. UNIFORMS**

1  
2 A. It is understood by the parties of this Agreement that uniform regulations of the  
3 Departments are established by the Chiefs of Police, and the primary purpose of this  
4 section is to protect covered employees from financial hardship resulting from changes in  
5 uniform regulations.

6  
7 Optional changes in the authorized uniform regulations may be made at any time.  
8 Optional items of uniforms shall remain optional during the term of this Agreement.  
9 Replacement changes in the uniform regulations that delete a previously authorized piece  
10 of uniform apparel, insignia, or item, shall only be mandatory for those hired after the  
11 effective date of this Agreement, or the date of the most current change.

12  
13 Sworn personnel shall not be required to purchase newly approved uniform apparel,  
14 insignia, or items until any existing, owned uniform items, insignia, or apparel are  
15 deemed unserviceable or in need of replacement.

16 All replacement purchase or gifts of uniform apparel must conform to current uniform  
17 regulations as of the date of purchase or receipt of the gift.

18  
19 B. Aviation and Open Space Rangers shall continue to receive a Uniform allowance  
20 of \$23.08 per pay period.

21  
22 **SECTION 29. FIREARMS**

23  
24 Firearms regulations of the Albuquerque Police Department as prescribed in the  
25 Department's Standard Operating Procedures Manual at the signing of this Agreement  
26 shall remain in full force and effect for all bargaining unit employees for the term of the  
27 Agreement. The Employer shall provide practice ammunition for .38, 9mm, and .45 ACP  
28 as well as duty ammunition for those calibers.

29  
30 **SECTION 30. HOURS OF WORK AND OVERTIME**

31  
32 A. The normal workday shall be eight (8) or ten (10) hours. The ten (10) hour  
33 workday shall be consecutive. The normal workweek will be forty (40) hours comprised  
34 of either five (5) eight-hour or four (4) ten-hour days.

35  
36 1. The Open Space Law Enforcement and Aviation Police section's eight (8)  
37 workday shall remain consecutive.

2. Should Aviation Police return to an eight-hour (8) workday, their eight-hour (8) workday shall be consecutive.

B. Employees shall be entitled to overtime compensation at the rate of time-and-one-half their regular straight-time rate when they perform work in excess of forty (40) hours in any one workweek.

1. The workweek shall consist of seven (7) consecutive days beginning at 0001 each Saturday, or the tour starting hour nearest to that time.

2. The workday will be any regularly scheduled, consecutive twenty four-hour period beginning at the start of the employee' s regularly assigned shift.

3. In accordance with Section 34 (FLSA) of this Agreement, the workdays, days off and start times of the shifts will be fixed and will not vary from week to week. The bid will include a variety of work schedules for the four (4) day workweek. A number of work schedules will include a schedule of one (1) start time for two (2) days and another start time for the other two (2) days. Additionally, a number of the schedules will include a schedule of one start time for three (3) days and another time for the other day. The remaining schedules will have the same start time for all four days. If a shift begins on or between the hours of 1700 and 0329, this shift will be Watch I. If a shift begins on or between 0330 and 0959, this shift will be Watch II and no shift differential will be paid. If a shift begins on or between 1000 and 1659, then the shift will be Watch III. Shift differential will be paid in accordance with Section 31 (Shift Differential) of this Agreement. For those schedules with varying start times as described above, shift differential will be paid on a prorated basis based on the start time of each shift in accordance with the amounts provided in Section 31 (Shift Differential).

The Department shall retain the prerogative to implement either a four ten hour or five eight hour work schedule.

4. For the purpose of this section, an employee who elects to change shifts will not be considered to have worked in excess of eight hours on any one workday.

5. For the purpose of computing overtime, paid leave shall be considered time worked, as per Section 34 (FLSA).

6. Under normal circumstances, management will assign consecutive days off in a normal workweek.

1  
2 7. In the event a supervisor proposes to permanently change the work hours of an  
3 officer who is not part of the bidding in Section 22 (Seniority), the Association will be  
4 provided the opportunity for input in accordance with the provisions of Section 20 (Rules  
5 and Regulations). Should the Department not agree with the input provided by the  
6 Association, the final decision on the employee' s work hours will be made by the Chief  
7 of Police.

8  
9 *A permanent change is defined as a change of more than 45 working days.*

10  
11 8. Upon seven (7) days advance notice a section commander may adjust an  
12 officer's shift/days off on a temporary basis for training or dignitary protection. This  
13 may be done at the request of the officer or the Department.

14  
15 **SECTION 31. SHIFT DIFFERENTIAL**

16  
17 Patrolmen, sergeants, and lieutenants assigned to Watch 1 will be paid \$23.08 per pay  
18 period, and patrolmen, sergeants, and lieutenants assigned to Watch III will be paid  
19 \$11.54 per pay period.

20  
21 **SECTION 32. COMPENSATION**

22  
23 A. Pay Plan

24  
25 1.

26 PATROLMEN

STEP	CURRENT	7/1/04	7/1/05
3	16.66	17.95	19.00
4	17.31	17.97	19.00
5	18.00	18.23	21.07
6	18.73	19.73	21.07
7	19.48	20.15	21.07
8	20.26	20.50	21.07
9	21.07		

35  
36  
37 SERGEANTS:

STEP	CURRENT	7/1/04	7/1/05
------	---------	--------	--------

1	6	21.07	22.82	23.57
2	7	21.91	23.52	25.60
3	8	22.78	24.70	25.60
4	9	23.68	25.00	25.60
5	10	24.62	25.20	25.60
6	11	25.60		

7  
8  
9

10

11

12 LIEUTENANTS:

13

14	7	25.60	28.72	29.93
15	8	26.62	28.76	29.93
16	9	27.68	29.62	29.93
17	10	28.78	29.93	
18	11	29.93		

19

20

21 CAPTAINS:

22

23	STEP	CURRENT	7/1/04	7/1/05
24	7	31.43	32.82	34.00
25	8	32.67	33.80	34.00
26	9	33.98	35.51	36.74
27	10	35.33	36.74	
28	11	36.74		

29

30 \*IF MAKING \$18.00 OR MORE, YOU WILL BE ON LONGEVITY SCALE #2.

31 \*IF MAKING LESS THAN \$18.00, YOU WILL BE ON LONGEVITY SCALE #1.

32

33 Lateral hires shall be compensated at a rate of pay consistent with City policy related to  
 34 lateral hires but no higher than step 05 on the pay plan. During the 2005-2006 fiscal  
 35 year, lateral hires will be paid no more than \$19.00 per hour. In future years, lateral hires  
 36 will be paid no more than the negotiated hourly rate of pay. The lateral hire shall not be  
 37 credited with more the one (1) step on the pay plan for each year of prior law  
 38 enforcement experience following successful completions of the officer's probationary  
 39 period with the City, but shall not be placed on the salary schedule at a step higher than  
 40 step 05. Time spent at a law enforcement academy, as non-certified or in probationary  
 41 status with the City or another agency will not be counted as prior law enforcement  
 42 experience.

43

44 B. *Specialty Pay:* The City shall pay the following to officers assigned to hazardous

classifications as follows:

1.	PILOTS	\$23.08 per pay period
2.	BOMB SQUAD	\$23.08 per pay period
3.	AERIAL OBSERVER	\$23.08 per pay period
4.	MOTORCYCLE OFFICERS	\$23.08 per pay period
5.	S.W.A.T TEAM and C.N.T. MEMBERS	\$23.08 per pay period
6.	C.I.T.	\$23.08 per pay period
7.	MOUNTED UNIT	\$23.08 per pay period

Assignment to the above hazardous classifications shall be voluntary however reassignment to another classification shall not be a grievable issue.

C. *Special Skills Pay*: The City shall pay the following to officers who have the following specialties:

1.	Polygraph Examiner	\$50.00 per pay period
2.	Field Training Officers and Area Sergeant Coordinators in A. P. D., Aviation and Open Space will receive a special skill compensation incentive pay of \$50.00 per pay period. This skill pay is separate and additional to any other incentive pay.	

D. *Longevity Pay*: Longevity pay will be paid as follows:

SCALE 1:

YEARS OF SWORN SERVICE	7/1/04	7/1/05
4	22.80	40.00
5	45.60	80.00
6	79.80	140.00
7	114.00	200.00
8	148.00	260.00
9	182.40	320.00
10-11	206.34	362.00
12-13	210.90	370.00
14-15	215.46	378.00
16-17	220.02	386.00
18-19	229.14	402.00

1	20+	233.70	410.00
2			
3	SCALE 2:		
4			
5	YEARS OF SWORN SERVICE	7/1/04	7/1/05
6			
7	6-7	111.72	196.00
8	8-9	112.86	198.00
9	10-11	184.16	272.66
10	12-13	186.47	274.97
11	14-15	191.09	279.59
12	16-17	200.32	288.82
13	18-19	211.85	300.35
14	20+	223.39	311.89
15			

16 Longevity Pay shall be paid based on years of continuous APD Sworn Service.

17  
18 1. Aviation and Open Space Officers hired after the ratification of this Agreement  
19 will be included in the above (APD Longevity) pay plan.

20 Aviation and Open Space Officers currently receiving longevity pay for 10 or more years  
21 of continuous City service will receive longevity pay in accordance with subsection D.1  
22 whether or not the City service was in the capacity of a sworn law enforcement officer.

23  
24 3. Once an officer has been at the top step of his/her grade for 364 days or more, the  
25 officer will receive \$34.62 per pay period. Once an officer has received this "Super  
26 Longevity", this compensation will not be lost upon promotion within the bargaining  
27 unit. Officers currently receiving Super Longevity will continue to receive this pay  
28 during the term of the contract. Employees shall not become eligible for this benefit after  
29 July 1, 2004.

30  
31 E. *Chiefs Time:* Section 1-11-3 of the Standard Operating Procedures for the  
32 Albuquerque Police Department will continue in full force for the duration of this  
33 Agreement. If the Aviation or Open Space Police Departments decide to initiate a  
34 Chief's Time Program, the City and the Association will meet and negotiate a program.

35  
36 F. *Court Allowance:* The City will pay a minimum of two (2) hours court time at  
37 time-and-one-half, unless the officer appears in court within one (1) hour of his/her tour  
38 of duty, starting or ending. In the event that court appearance is within one (1) hour of  
39 the tour of duty, starting or ending, the officer will be paid a sum of one (1) hour. This  
40 section does not apply to officers appearing in court during their tour of duty.

41

1 Officers assigned to graveyard shift who have worked the previous shift will be paid a  
2 minimum of two (2) hours at time-and-one-half beginning thirty (30) minutes after shift  
3 ends plus actual time spent in court following two-and-one-half (2-1/2) hours after close  
4 of shift.

5  
6 G. *Payroll Upgrading:* An employee who is assigned the responsibilities and  
7 temporarily performs the duties of a position graded higher than the one he/ she holds  
8 shall upon approval of the Director or Chief, be reimbursed accordingly. Such employee  
9 shall receive the entrance rate of the class or one step above his present rate whichever is  
10 higher, while so assigned. Employees selected for Payroll upgrading must be qualified to  
11 perform the duties of the higher position. The need for upgrades shall be determined by  
12 the division commander.

13  
14 H. *Bilingual Pay:* Only those languages recognized by the Human Resources and  
15 Productivity Committee as adding to the increased productivity and efficiency of the  
16 Police Department shall qualify for bilingual pay.

17 An officer shall qualify for bilingual pay upon demonstrating an acceptable level of  
18 reading, writing and conversational proficiency. Job-related material will be used in  
19 determining the reading, writing and conversational proficiency. The certification of  
20 proficiency will be established by an expert selected by the H.R.P. Committee.

21  
22 Officers who are certified in all three proficiency areas shall be paid \$23.08 per pay  
23 period. Should an officer only pass the conversational portion of the test, that officer  
24 shall be paid \$9.23 per pay period.

25  
26 It is recognized that if an officer is bilingual but fails to apply for or pass the certification  
27 required for bilingual pay, the officer must continue to utilize whatever bilingual abilities  
28 he/she has as needed on the job.

29 I. *Transfers:* An employee who transfers from one APOA bargaining unit department to  
30 another shall retain all benefits based on time that the employee received while serving in  
31 the original department.

32 J. *Physical Examinations:* Each employee may utilize one-half (1/2) day paid leave  
33 between July 1, 2004 and June 30, 2005 for the purpose of undergoing a physical  
34 examination. The leave shall not be deducted from the employee's accumulated paid  
35 leave. An employee who utilizes this leave shall be required to provide written medical  
36 documentation verifying that the physical examination has taken place.

37 Memorandum of Agreement

38 The City and the Albuquerque Police Officers' Association (APOA) have reached a  
39 tentative agreement on all outstanding negotiations' issues. Any agreement to expand,  
40 modify or delete provisions set forth in the June 1, 2002 through June 1, 2003 Collective  
41 Bargaining Agreement have been executed through written tentative agreements. Any

1 provision of the June 1, 2002 through June 1, 2003 Collective Bargaining Agreement that  
2 has not been modified or deleted shall be incorporated as written into the new Collective  
3 Bargaining Agreement.

### 4 5 **SECTION 33. CAPTAINS**

6  
7 A. In recognition of the extra duties, responsibilities and irregular work hours  
8 required of Police Department Captains, Captains shall be considered bona fide executive  
9 employees as defined by FLSA of 1938, as amended, and compensations will be  
10 governed by Section 541.1. As employees "employed in a bona fide executive capacity"  
11 under Section 13(a)(1) of the Act, the captain' s duties will:

12  
13 1. Primarily consist of the management of the enterprise in which he/she is assigned  
14 or of a customarily recognized department of subdivision thereof, and

15  
16 2. Will customarily and regularly direct the work of two or more other employees  
17 therein; and

18  
19 3. Will have the authority to impose disciplinary action on other employees  
20 consistent with the Merit System Ordinance and the SOP; and

21  
22 4. Will customarily and regularly exercise discretionary powers.  
23

24 The parties agree that the Chief of Police has the sole discretion to assign/re-assign  
25 captains. Captains shall not be assigned hours by management but will work regular  
26 hours as necessary and sufficient to complete tasks as assigned by the Chief of Police  
27 and/or his designee. Captains will not incur overtime or comp time except as noted  
28 below but will adjust their hours to accomplish their tasks and responsibilities. In  
29 consideration of the salary basis, there shall be no deductions from sick or annual leave  
30 for absences of less than a day. Captains shall receive eight (8) hours of straight  
31 compensatory time per pay period.

### 32 33 **SECTION 34. FAIR LABOR STANDARDS ACT**

34  
35 Under the Fair Labor Standards Act (FLSA), paid leave is not considered time worked  
36 for the purpose of computing overtime and the *regular rate* for the purpose of computing  
37 overtime includes all remunerations.  
38

1 The parties hereto agree that for the purpose of computing overtime, paid leave will be  
2 considered time worked and the regular rate includes the hourly rate with no other  
3 remunerations included. Under 7K of the FLSA, the parties agree that for the purpose of  
4 computing overtime, the pay schedule will be a 7-consecutive-day, 40-hour workweek.

5  
6 Applications of the FLSA as it pertains to the exempt status of positions will not change  
7 from current practice.

### 8 9 **SECTION 35. PERA**

10  
11 The City will continue the current P.E.R.A. plans for A.P.D., Aviation Police and Open  
12 Space Rangers, at the current funding levels during the term of this Agreement.

### 13 14 **SECTION 36. COMPENSATORY TIME**

15  
16 Time worked over 40 hours per week will be compensated at 1-1/2 times the officer' s  
17 regular rate of pay, or in the form of compensatory time. Compensatory time will be  
18 computed at the rate of 1-1/2 times the hours actually worked. The maximum accrual of  
19 comp time for any officer, including Aviation Police, is 200 hours. Upon separation of  
20 employment from the Albuquerque Police Department, Aviation and Open Space  
21 Departments, an officer is limited to a cash-out of no more than forty (40) hours of  
22 unused comp time at straight-time pay. Any accrual of comp time over forty (40) hours  
23 must be used 6 months prior to separation.

### 24 25 **SECTION 37. LOST, DAMAGED, OR STOLEN PROPERTY**

26  
27 A. Officers who have lost, damaged or have had City property stolen in the line of  
28 duty, regardless of the cost, will not be required to reimburse the City unless negligence  
29 is proven to the satisfaction of their chain-of-command.

30  
31 B. Officers who have been determined to have contributory negligence for lost,  
32 damaged, or stolen property shall only be required to reimburse the City up to the value  
33 of \$500, or may elect to replace the lost, damaged, or stolen item. Appropriate  
34 disciplinary action may also be taken when necessary.

35  
36 C. The City will reimburse an officer for replacement or repair, at the City's option, for  
37 health aids, uniform apparel and personal equipment approved by the Department, lost,  
38 damaged or stolen in the line of duty as a result of a direct delivery of service that has  
39 been officially documented. The City will reimburse the cost for replacement or repair of

1 health aids, personal equipment or for each piece of uniform apparel, according to the  
2 City Risk Management guidelines. The City will have the right to retain any damaged  
3 equipment that is replaced. This language is not intended to be used to replace old, worn  
4 out health aids or uniform apparel. Any replacement equipment will be of equal value to  
5 the damaged property.

7 If the health aids, uniform apparel or personal equipment are lost, stolen or damaged as a  
8 result of the contributory negligence of the officer, proven to the satisfaction of the chain-  
9 of-command, the City will not be liable for reimbursement for replacement or repair.

### 11 **SECTION 38. HUMANITARIAN LEAVE POOL**

13 A. The Police Department will establish a *Humanitarian Leave Pool* that shall make  
14 available to officers who have exhausted all accrued paid leave, including comp time due  
15 to a short-term, non-duty related injury, illness or medical condition, additional wages at  
16 the officers rate of pay for no longer than thirty (30) calendar days.

18 B. Funding for the leave pool will be derived from Association solicited donations of  
19 compensatory time from bargaining unit members converted to a dollar amount at the  
20 contributor' s rate of pay rounded to the nearest quarter (1/4) hour. The comp time  
21 donations will be at the rate of 1 ½ hours' equals 1 hour donated to the leave pool.

23 C. The maximum amount of hours in the leave pool shall not exceed 1000 hours at  
24 any time.

26 D. When an officer resigns, transfers, or is terminated from the Department who has  
27 less than 500 hours of sick leave, the remaining balance above 350 hours shall be  
28 converted to the Humanitarian Leave Pool. Any donated sick leave will be subject to the  
29 1000 hours maximum accrual under section C. During the months of March and  
30 October, upon request of the Association, the City shall provide written notification to the  
31 Association of all sick leave returned to the City by officers who resign or are terminated  
32 from the Department.

34 E. No funds shall be approved for disbursement from the leave pool until an officer  
35 has exhausted all paid leave. Access to the funds in the leave pool will be made upon a  
36 recommendation by the APOA or APD. Open Space and Aviation Police will obtain  
37 approval from their respective Chief or designee. The APOA and the City will jointly  
38 establish appropriate guidelines for the disbursement of the fund.

40 F. Nothing in this section will prevent an officer from donating personal vacation

1 leave to any City employee according to City Rules and Regulations.

2  
3 **SECTION 39. SHIFT EXCHANGE**  
4

5 A. Sworn personnel of equal rank and assigned the same basic duties may exchange  
6 shifts or portions thereof when the change does not interfere with the operations of the  
7 Department. Shift exchanges are at the discretion of and subject to the approval of the  
8 watch commander.

9  
10 B. The parties agree that shift exchanges shall not involve any exchanges of money,  
11 but are strictly an exchange of time.

12  
13 C. The Department may develop appropriate administrative guidance.  
14

15 Officers who agree to work that shift shall be responsible for working the shift. In the  
16 event an officer fails to report under the shift exchange for any reason, it shall be in the  
17 sole discretion of Department' s Commander to authorize an overtime replacement and the  
18 officer failing to report, may at the Department' s discretion, be docked at time and one  
19 half at his/her hourly rate. No other disciplinary action will be taken against the officer.  
20

21 **SECTION 40. CIRCULARIZED POSITIONS**  
22

23 A. All positions will be advertised.  
24

25 B. Advertisements will identify the qualifications for positions.  
26

27 C. Interested individuals will submit their resumes to APD Personnel prior to the  
28 deadline.

29 D. A testing and interview process will be utilized to determine the best qualified  
30 applicant for circularized positions. The position will be offered based on the highest test  
31 results. Internal Affairs positions shall be the only positions exempt from this process.  
32 This process shall not be subject to this Agreements grievance procedure.  
33

34 E. Assignments to exempt positions will be made by the Division Commander based  
35 upon the unit supervisor' s recommendation, subject to the approval of the Chief.  
36

1 F. The term "Exempt Position" only refers to the final selection process of qualified  
2 applicants after the testing and interview process.

3  
4 G. All personnel selected for circularized positions shall be subject to a minimum  
5 assignment of one year unless otherwise mutually agreed upon by the employee and the  
6 Department.

7  
8 H. After the one-year trial period an officer may only be removed from a circularized  
9 position with cause.

10  
11 I. Removal from any circularized position during the one-year trial period is not  
12 subject to grievance.

13  
14 J.. Involuntary reassignments are subject to the review and approval of the Chief of  
15 Police.

16  
17 K.. Nothing in this section shall prevent Inter-Division transfers within area  
18 commands only prior to advertising a position.

19  
20 **SECTION 41. TAKE HOME CAR PLAN**

21  
22 A. The continuation of the "Take Home Vehicle Plan" is within the sole prerogative  
23 of the Chief of Police. If the Chief of Police decides to discontinue the "Take Home  
24 Vehicle Plan", he/she shall give the APOA 45 days advance notice.

25  
26 1. The provisions of this Section shall be applicable to the "Take Home Vehicle  
27 Plan" for Open Space Rangers. The continuation of the "Take Home Vehicle Plan" for  
28 Open Space Rangers is within the sole prerogative of the Director of Parks and  
29 Recreation as per this section in its entirety.

30  
31 B. During the 45 days, the Chief of Police, or his/her designee, and the Association  
32 will meet and attempt to solve the problems relating to this program, in an effort to  
33 continue the "Take Home Vehicle Program." If no agreement is reached, the Chief of  
34 Police may discontinue the "Take Home Vehicle Plan." Nothing in this section prohibits  
35 the Chief from discontinuing the program, then implementing a new program after the 45  
36 days notice has expired.

37  
38 C. PARTICIPATION

1  
2 1. Participation in this program shall be totally voluntary and will be available to  
3 every non-probationary officer, subject to Departmental Rules and Regulations governing  
4 this program (herein referred to as "regulations"). The right to limit or deny participation  
5 in this program is reserved to the Chief of Police.

6  
7 2. Officers volunteering to participate in this program agree to abide by all  
8 regulations governing this program.

9  
10 3. Officers hired prior to June 02, 2001 must live within a thirty (30) mile radius  
11 from the city limits of Albuquerque to participate in the Take Home Vehicle Program  
12 however, officers living outside the thirty (30) mile radius will still be assigned a vehicle  
13 for their use. The vehicle must be parked at their duty station (as currently provided) at  
14 the end of their duty day, or the closest Albuquerque police station to their residence. If  
15 an officer lives outside the thirty (30) mile radius, he/she will be allowed to take his/her  
16 police vehicle home if they are on official on-call status.

17 Members who lived outside of the thirty (30) mile radius prior to May 1993 will be  
18 exempt, unless they change their address after the date indicated.

19  
20 5. Officers hired after June 02, 2001 must live within the City Limits of  
21 Albuquerque to participate in the Take Home Vehicle Program.

22  
23 6. The Take Home Motorcycle Plan will be held to the same condition as the "Take  
24 Home Vehicle Plan."

25  
26 D. DUE PROCESS

27  
28 1. If an officer fails to follow the regulations governing this program, it will be cause  
29 for the Vehicle to be taken away from an officer.

30  
31 2. The Department gas allotment will be followed. Officers who fail to abide by the  
32 policy will be subject to the sanction set forth in this agreement.

33 3. A vehicle may be taken from an officer for other infractions, not listed, and the  
34 appeal process will be the same.

35  
36 4. Sanctions:

1 1<sup>st</sup> infraction in a 12 month period \_\_\_\_\_ 14 calendar days

2 2<sup>nd</sup> infraction in a 12 month period \_\_\_\_\_ 4 weeks

3 3<sup>rd</sup> infraction in a 12 month period \_\_\_\_\_ 6 months

4

5 5. Officers will be notified in writing of the suspension of their take home vehicle  
6 privileges.

7

8 6. The following will be the only appeal process for suspension of an officer' s take  
9 home vehicle privileges for cause.

10

11 a. Upon being notified of the suspension of his/her take home car vehicle privileges,  
12 the officers may acknowledge the violation and begin serving the sanction.

13

14 b. If the officer wishes to appeal the sanction, within five (5) days of notification of  
15 suspension of the officer' s take home vehicle privileges, he/she ~~must~~ submit a letter in  
16 writing to the President of the Association, notifying the President of his/her intention to  
17 appeal and specifying the reasons the officer feels the sanction should not be imposed.

18

19 c. Within five (5) days of notification, the President of the Association will advise  
20 the Chief of Police, and a panel will be selected to hear the appeal.

21

22 d. The panel will consist of 3 sworn personnel chosen by the Chief of Police and 2  
23 sworn personnel chosen by the APOA president.

24

25 The panel will meet at a mutually agreed upon time. Attendance at the meeting is  
26 voluntary on the part of the officer. If the officer does not appear before the panel, an  
27 Association representative will present the case.

28

29 f. The decision of the panel will be binding.

30 g. The officer will be advised of the panel' s decision at the end of the review, in  
31 writing.

32 h. The loss of a take home vehicle will not occur until after the entire review process  
33 is completed, if the officer appeals the suspension.

34

35 i. The final decision of the panel will not be considered disciplinary action and will  
36 not be placed on the officer' s employee card.

1  
2 E. REGULATIONS

3  
4 1. The regulations of the "Take Home Vehicle Plan" will be identified separately  
5 from this contract.

6 2. The regulations of the "Take Home Vehicle Plan" may be modified at the  
7 discretion of the Chief of Police. Prior to any modification of the regulations, the City  
8 will provide notice to the Association pursuant to Section 20 (Rules and Regulations).

9  
10 F. AVIATION POLICE

11  
12 1. Nothing in this Section shall be interpreted to require a "Take Home Vehicle  
13 Plan" be implemented for Aviation Police.

14  
15 **SECTION 42. BULLETIN BOARDS**

16  
17 A. The City shall provide a reasonable amount of bulletin board space in sizes and  
18 location mutually agreed upon by the parties for the display of official Association  
19 literature, correspondence or notices.

20  
21 B. The Association will not post literature, correspondence or notices at any City  
22 facility or in any location other than the bulletin boards, employee mailboxes, or the  
23 briefing blotters.

24  
25 C. The bulletin board will not be used to criticize the Association, any of the  
26 Association's policies, any of the Association officers, the City, any City policies, or any  
27 City officials or employees.

28  
29 D. The Association or the City may remove any material, which violates this Section.

30  
31  
32  
33 **SECTION 43. MONTHLY AWARD INCENTIVE PROGRAM**

34  
35 The Parties recognize that the City has the discretion to develop and implement a system  
36 of awards pursuant to Section 3-1-19 of the Merit System Ordinance. The decision of the

1 City to implement or continue an awards system, or the decision to make an award under  
2 such a system, shall not be the subject of a grievance or claim of contract violation.

3  
4 **SECTION 44. OPEN SPACE, APD, AVIATION PROVISIONS**

5  
6 A. Replacement of Body Armor. The City will annually replace body armor that is  
7 five years old for uniformed personnel as soon as practical. Non-uniformed and other  
8 Officers requesting body armor replacement prior to the five years will be considered on  
9 a case-by-case basis.

10  
11 B. OPEN SPACE ONLY: Minimum Staffing Levels. Minimum staffing levels will  
12 be two officers and a supervisor on duty at all times during regular hours of operation.  
13 The Chief Ranger will be included as a supervisor to meet all staffing levels.

14  
15 C. OPEN SPACE ONLY: When there is overtime for a sergeant, they will be called  
16 in order of seniority. The only time there will be a temporary upgrade allowed on a shift  
17 is if a sergeant is on leave, which exceeds forty (40) hours, or if other sergeants decline to  
18 take the overtime. If an officer does not volunteer to take the upgrade the sergeant with  
19 the least amount of seniority will be forced to work.

20  
21 **SECTION 45. CONTRACT INCLUDES ENTIRE AGREEMENT**

22  
23 It is understood and agreed by and between the parties hereto that this Agreement  
24 is the only existing Agreement between the parties, and replaces any and all previous  
25 Agreements.

26  
27 **SECTION 46. SAVINGS CLAUSE**

28  
29 Should any part of this Agreement or any provision contained herein be declared  
30 invalid by a District Court or competent jurisdiction, the validity of the remaining  
31 portions shall not be affected. Should this occur, the parties will immediately meet to  
32 negotiate a suitable provision or replace the provision held invalid.

1  
2 **SECTION 47. DEFERRED COMPENSATION**  
3

4 A. CATCH-UP DEFERRAL:

5 Any officer, on a deferred compensation program, who retires at the end of the calendar  
6 year is entitled to be paid a catch-up deferral from accumulated sick and vacation leave in  
7 conjunction with the last regular paycheck of the calendar year. The officer will be  
8 entitled to a second similar catch-up deferral in conjunction with or immediately  
9 following final payment of hours worked in the first regular payroll of the new calendar  
10 year. Such catch-up deferrals shall be for amounts allowed by federal law and shall use  
11 payroll practices currently in place. Any officer who intends to retire during a calendar  
12 year, but not at the end of a calendar year as stipulated above, is entitled to be paid a  
13 catch-up deferral from accumulated sick and vacation leave in conjunction with the last  
14 regular paycheck of the calendar year immediately preceding the year in which retirement  
15 will occur, subject to submittal of an irrevocable letter of retirement. The officer will be  
16 entitled to a second similar catch-up deferral in conjunction with or immediately  
17 following final payment of hours worked in the final regular paycheck at retirement.  
18 Payment of any balance remaining of accumulated sick or vacation hours shall be in  
19 accordance with the current cash-out policy as stated elsewhere within this agreement.  
20 Under no circumstances will the allowable deferral be exceeded in any calendar year.

21  
22 **SECTION 48. TERM OF AGREEMENT**  
23

24 "This Agreement is to be effective JUNE 02, 2003, and is to remain effective until and  
25 including JUNE 30, 2006. Should neither party to the Agreement request opening of  
26 negotiations as provided in the Employee Relations Ordinance 67-1977, as amended, this  
27 Agreement and the conditions herein shall continue in effect from year to year. During  
28 the term of this Agreement, a petition for recertification may be filed only within the  
29 thirty (30) day period between the 120th and 90th day immediately preceding the  
30 expiration date of the Agreement. There shall be no retroactive compensation benefit in  
31 this Agreement.

32  
33 The parties will reopen negotiations for a maximum of sixty (60) days no later than  
34 February 1, 2005 to negotiate medical insurance savings accounts. If the negotiations  
35 result in any health insurance savings for the City, the savings shall be applied to a  
36 bargaining unit compensation increase in Fiscal Year '06."

37 IN WITNESS WHEREOF, the parties have set their hands and seals this \_\_day of \_\_\_\_  
38 \_\_\_\_\_, 2004.  
39  
40

1 ALBUQUERQUE POLICE OFFICERS'  
2 ASSOCIATION

CITY OF ALBUQUERQUE

3

4

5

6

7 \_\_\_\_\_  
Jeffrey Remington, President, APOA

\_\_\_\_\_  
Martin J. Chavez, Mayor

8

9

10

11 Form Reviewed by Legal Department

(SEAL)

12

13

14 \_\_\_\_\_  
Assistant City Attorney

\_\_\_\_\_  
City Clerk/Recorder